

Assembly Bill No. 1110

CHAPTER 656

An act to amend Sections 398.1, 398.2, 398.4, and 398.5 of the Public Utilities Code, relating to energy.

[Approved by Governor September 26, 2016. Filed with
Secretary of State September 26, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1110, Ting. Greenhouse gases emissions intensity reporting: retail electricity suppliers.

Under existing law, entities offering electric services in California are required to disclose information on the sources of energy that are used to provide electric services. Existing law requires every retail supplier, as defined, that makes an offer to sell electricity that is consumed in California to disclose its electricity sources for the previous calendar year. These disclosures are required to be made to end-use consumers and potential end-use consumers. Existing law requires a retail supplier to disclose its electricity sources as a percentage of annual sales that is derived from specified sources of energy, including eligible renewable energy resources. Existing law requires that retail suppliers annually report to the State Energy Resources Conservation and Development Commission (Energy Commission) certain information for each electricity offering from "specified sources," as defined, for the previous calendar year and authorizes the Energy Commission to verify environmental claims made by retail suppliers.

This bill would, among other things, require the Energy Commission, in consultation with the State Air Resources Board, to adopt a methodology for the calculation of greenhouse gas emissions intensity for each purchase of electricity by a retail supplier to serve its retail customers. The bill would require a retail supplier, including an electrical corporation, local publicly owned electric utility, electric service provider, and community choice aggregator, to also disclose both the greenhouse gases emissions intensity of any electricity portfolio offered to its retail customers, as specified, and the Energy Commission's calculation of the greenhouse gas emissions intensity associated with all statewide retail electricity sales. The bill would require a retail supplier to annually report to the Energy Commission certain additional information for each electricity offering for the previous calendar year and would authorize the Energy Commission to verify procurement claims, in addition to environmental claims, made by retail suppliers. The bill would require the Energy Commission, on or before January 1, 2018, to adopt guidelines, through an open process, subject to public comment, and adopted by a vote of the Energy Commission, for the reporting and disclosure of greenhouse gas emissions intensity. The bill would require

retail suppliers, beginning June 1, 2020, to report data on greenhouse gas emissions intensity associated with retail sales occurring after December 31, 2018, except as provided.

The Public Utilities Act makes any public utility and any corporation other than a public utility guilty of a crime, if the public utility or corporation violates the act or fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements by an electrical corporation or electric service provider would be a crime, the bill would impose a state-mandated local program by expanding what is a crime. By placing additional reporting duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 398.1 of the Public Utilities Code is amended to read:

398.1. (a) The Legislature finds and declares that there is a need for reliable, accurate, timely, and consistent information regarding fuel sources for electric generation offered for retail sale in California.

(b) The purpose of this article is to establish a program under which entities offering electric services in California disclose accurate, reliable, and simple to understand information on the sources of energy, and the associated emissions of greenhouse gases, that are used to provide electric services.

SEC. 2. Section 398.2 of the Public Utilities Code is amended to read:

398.2. The definitions set forth in this section shall govern the construction of this article.

(a) “Greenhouse gas emissions intensity” means the sum of all annual emissions of greenhouse gases associated with a generation source divided by the annual production of electricity from the generation source.

(b) “Retail supplier” means an entity that offers an electricity product for sale to retail consumers in California, including an electrical corporation, local publicly owned electric utility, electric service provider, and community choice aggregator.

(c) “System operator” means the Independent System Operator with responsibility for the efficient use and reliable operation of the transmission grid, as provided by Section 345, or a local publicly owned electric utility that does not utilize the Independent System Operator.

(d) “Purchases of electricity from specified sources” or “purchases from specified sources” means electricity transactions that are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer. Retail suppliers may rely on annual data to determine whether a transaction meets this definition, rather than hour-by-hour matching of loads and resources.

(e) “Electricity from unspecified sources” means electricity that is not traceable to specific generation sources by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once, and only once, to a retail consumer.

SEC. 3. Section 398.4 of the Public Utilities Code is amended to read:

398.4. (a) Every retail supplier that makes an offering to sell electricity that is consumed in California shall disclose its electricity sources and the associated greenhouse gases emissions intensity for the previous calendar year.

(b) The disclosures required by this section shall be made to potential end-use consumers in all product-specific written promotional materials that are distributed to consumers by either printed or electronic means, including the retail supplier’s Internet Web site, if one exists, except that advertisements and notices in general circulation media shall not be subject to this requirement.

(c) The disclosures required by this section shall be made annually to end-use consumers of the offered electricity. The annual disclosure shall be made by the end of the first complete billing cycle for the third quarter of the year, and shall be consistent with information provided to the Energy Commission pursuant to Section 398.5. A retail supplier may distribute the disclosures required by this section via email to any end-use consumer that has consented to receive email in lieu of printed materials.

(d) The disclosures required by this section shall be made separately for each portfolio offering made by the retail supplier.

(e) On or before January 1, 1998, the Energy Commission shall specify guidelines for the format and means for disclosure required by Section 398.3 and this section, based on the requirements of this article and subject to public hearing.

(f) The costs of making the disclosures required by this section shall be considered to be generation related.

(g) The disclosures required by this section shall comply with the following:

(1) A retail supplier’s disclosure of its electricity sources shall be expressed as a percentage of annual sales derived from each of the following categories:

- (A) Electricity from unspecified sources.
- (B) Purchases of electricity from specified sources.

(2) A retail supplier's disclosure of its electricity sources shall also separately identify total California system electricity, which is the sum of all in-state generation and net electricity imports by fuel type.

(h) Each of the categories specified in subdivision (g) shall be additionally identified as a percentage of annual sales that is derived from the following fuels, sources of energy, or electricity products:

(1) Coal.

(2) Large hydroelectric (greater than 30 megawatts).

(3) Natural gas.

(4) Nuclear.

(5) Eligible renewable energy resources pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11)), including any of the following:

(A) Biomass and biowaste.

(B) Geothermal.

(C) Eligible hydroelectric.

(D) Solar.

(E) Wind.

(6) Other categories as determined by the Energy Commission.

(7) The portion of annual sales derived from unbundled renewable energy credits shall be included in the disclosures in a format determined by the Energy Commission. A retail supplier may include additional information related to the sources of the unbundled renewable energy credits.

(i) All electricity sources disclosed as purchases of electricity from specified sources shall meet the requirements of subdivision (d) of Section 398.2.

(j) Purchases of electricity from specified sources identified pursuant to this section shall be from sources connected to the Western Electricity Coordinating Council interconnected grid.

(k) (1) Each retail supplier shall disclose both the greenhouse gas emissions intensity of any electricity portfolio offered to its retail customers and the Energy Commission's calculation of greenhouse gas emissions intensity associated with all statewide retail electricity sales, consistent with the requirements of this subdivision.

(2) The Energy Commission shall do all of the following:

(A) Adopt a methodology, in consultation with the State Air Resources Board, for the calculation of greenhouse gas emissions intensity for each purchase of electricity by a retail supplier to serve its retail customers.

(B) Calculate the greenhouse gas emissions intensity associated with statewide retail electricity sales based on the greenhouse gas emissions for total California system electricity.

(C) Rely on the most recent verified greenhouse gas emissions data while ensuring that greenhouse gas emissions intensity factors for electricity from specified and unspecified sources are available to retail suppliers with sufficient advance notice to permit timely reporting.

(D) Establish guidelines for adjustments to a greenhouse gas emissions intensity factor for a reporting year for any local publicly owned electric

utility demonstrating generation of quantities of electricity in previous years in excess of its total retail sales and wholesale sales from specified sources that do not emit any greenhouse gases. Adjustments authorized by the guidelines established by the Energy Commission shall not permit excess generation procured in a single year to be counted more than once or to be resold to another retail supplier as a specified source.

(E) Ensure that there is no double-counting of the greenhouse gas emissions or emissions attributes associated with any unit of electricity production reported by a retail supplier for any specific generating facility or unspecified source located within the Western Electricity Coordinating Council when calculating greenhouse gas emissions intensity.

(F) (i) On or before January 1, 2018, adopt guidelines, through an open process, subject to public comment, and adopted by a vote of the Energy Commission, for the reporting and disclosure of greenhouse gas emissions intensity associated with retail sales based on the requirements of this subdivision. Beginning June 1, 2020, retail suppliers shall be required to report data on greenhouse gas emissions intensity associated with retail sales occurring after December 31, 2018.

(ii) Any new community choice aggregator formed after January 1, 2016, shall not be required to report data on greenhouse gas emissions intensity associated with retail sales until at least 24 months, but shall be required to report that data no later than 36 months, after serving its first retail customer.

(3) Any marketing or retail product claims relating to the greenhouse gas emissions intensity of the electric supply portfolio of a retail supplier shall be consistent with the methodology adopted by the Energy Commission pursuant to this section. Retail suppliers may provide additional information to customers describing other actions relating to greenhouse gases that are unrelated to the electric supply portfolio.

(l) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

SEC. 4. Section 398.5 of the Public Utilities Code is amended to read:

398.5. (a) Retail suppliers shall annually report to the Energy Commission, for each electricity offering for the previous calendar year, each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) The kilowatthours purchased from unspecified sources in California and from unspecified sources imported into California from other subregions within the Western Electricity Coordinating Council.

(3) For each electricity offering, the kilowatthours sold at retail.

(4) For each electricity offering, the disclosures made to consumers pursuant to Section 398.4.

(b) Information submitted to the Energy Commission pursuant to this section that is a trade secret as defined in subdivision (d) of Section 3426.1

of the Civil Code shall not be released except in an aggregated form such that trade secrets cannot be discerned.

(c) The Energy Commission shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the Energy Commission shall seek to minimize the reporting burden and cost of reporting that it imposes on retail suppliers.

(e) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

(f) The Energy Commission may verify environmental and procurement claims made by retail suppliers.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.